

UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER
YEAR: 2018/2019

TITLE OF PAPER : JURISPRUDENCE

COURSE CODE : L502

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS:

- (i) ANSWER ANY FOUR (4) QUESTIONS.**
- (ii) EACH QUESTION CARRIES 25 MARKS.**
- (iii) IN ANSWERING ANY QUESTION, NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**
- (iv) USE LEGAL AUTHORITIES TO SUBSTANTIATE YOUR ANSWERS.**

DO NOT OPEN THIS PAPER UNTIL TOLD TO DO SO BY THE INVIGILATOR.

QUESTION ONE

In highlighting the deficiency of John Austin's notion of sovereignty, H. L. A Hart contends that the conception of the legally unlimited sovereign misrepresents the character of law in modern states.

Critically analyse this statement and, also, indicate whether the legal system of every modern state necessarily exhibits this character of law at all times.

[25 Marks]

QUESTION TWO

Critically analyse the following extract from the famous American Declaration of Independence, 1776, as drafted by Thomas Jefferson, in the context of the pacts or contracts that the social contract theory of social organisation deems as underpinning rules in every civil society:

We hold these truths to be self-evident, that all men are created equal. That they are endowed by their Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness.

That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government.

[25 Marks]

QUESTION THREE

Critically discuss the statement that whatever problems might beset feminist jurisprudence, this jurisprudence has, especially since the United Nation's General Assembly's adoption of the Convention on the Elimination of All Forms of Discrimination against Women, 1979, become a force to reckon with.

[25 Marks]

QUESTION FOUR

On the basis of the theory of maximal benefit and the theory of rights, critically analyse the racial principle and the leadership principle of the racial theory of law.

[25 Marks]

QUESTION FIVE

Currency notes and coins are legally tender, i.e., they can be legally used to pay for things in a particular country. The following statements appear on currency notes in Swaziland and the United States of America.

- (a) Swaziland: "GOD IS OUR SOURCE";
- (b) United States of America: "IN GOD WE TRUST".

- (i) State, without discussing, the school of jurisprudence to which the above statements directly relate. **[2 Marks]**
- (ii) Briefly discuss how the entity called GOD features in the postulates of this school of jurisprudence. **[8 Marks]**
- (iii) Critically discuss the main jurisprudential objections raised against the place of GOD in the postulates of this school by any two other schools of jurisprudence. **[15 Marks]**

[25 Marks]

=====END OF PAPER=====